

FEDERAL INSURANCE COMPANY
Capital Center
251 North Illinois, Suite 100
Indianapolis, Indiana 46204

NAIC COMPANY CODE 20281

MARKET CONDUCT EXAMINATION REPORT

OF

PRIVATE PASSENGER AUTOMOBILE

AS OF DECEMBER 31, 2003

AND

WORKERS' COMPENSATION INSURANCE

AS OF DECEMBER 31, 2002

**PREPARED BY INDEPENDENT CONTRACTORS FOR THE
COLORADO DEPARTMENT OF REGULATORY AGENCIES
DIVISION OF INSURANCE**

**Federal Insurance Company
Capital Center
251 North Illinois, Suite 100
Indianapolis, Indiana 46204**

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EXAMINATION REPORT**

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As of
December 31, 2003**

AND

**Workers' Compensation
As of
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**Prepared by

Kathleen M. Bergan, AIE

Wayne C. Stephens, CIE

Independent Contract Examiners**

February 2, 2005

The Honorable Doug Dean
Commissioner of Insurance
State of Colorado
1560 Broadway Suite 850
Denver, Colorado 80202

Commissioner Dean:

In accordance with §§ 10-1-203 and 10-3-1106, C.R.S., an examination of selected underwriting, rating, unit statistical report practices, and claims practices of Federal Insurance Company's private passenger automobile and workers' compensation insurance business, has been conducted. The Company's records were examined at its Regional office located at 9155 East Nichols Avenue, Suite 100, Englewood, Colorado, 80112. The Company's Administrative office is located in Warren, New Jersey .

The examination of the Private Passenger Auto covered a six (6) month period from July 1, 2003 to December 31, 2003.

The examination of Workers' Compensation covered the one (1) year period from January 1, 2002 to December 31, 2002.

A report of the examination of Federal Insurance Company is, herewith, respectfully submitted.

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Wayne C. Stephens, CIE, CPCU

Independent Market Conduct Examiners

**MARKET CONDUCT
EXAMINATION REPORT
OF THE
FEDERAL INSURANCE COMPANY**

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COMPANY PROFILE

Federal Insurance Company (hereinafter referred to as “The Company”) was incorporated as New York Marine Underwriters under the laws of the State of New York in 1901. The Company is domiciled in the State of Indiana, and is a wholly owned subsidiary of The Chubb Corporation, a publicly traded company incorporated under the laws of the State of New Jersey.

The Company was issued a Certificate of Authority to write business in Colorado on May 15, 1947, and is licensed to write multiple property and casualty lines of business. The Company is licensed to transact business in all fifty (50) states

As of December 31, 2003, the Company had reported written premium in Colorado of \$2,903,000 for Private Passenger Automobile, representing 0.10% market share in Colorado.

As of December 31, 2002, the Company had reported written premium in Colorado \$7,375,499 for Workers’ Compensation coverage, representing 0.82% of the market share in Colorado.

PURPOSE AND SCOPE OF EXAMINATION

This market conduct report was prepared by independent examiners contracting with the Colorado Division of Insurance for the purpose of auditing certain business practices of insurers licensed to conduct the business of insurance in the State of Colorado. This procedure is in accordance with Colorado Insurance Law §10-1-204, C.R.S., which empowers the Commissioner to supplement his resources to conduct market conduct examinations. The findings in this report, including all work product developed in the production of this report, are the sole property of the Colorado Division of Insurance.

The purpose of the examination was to determine the Company's compliance with Colorado insurance law and with generally accepted operating principles related to Private Passenger Automobile insurance and Workers' Compensation insurance. Examination information contained in this report should serve only these purposes. The conclusions and findings of this examination are public record. The preceding statements are not intended to limit or restrict the distribution of this report.

This examination was governed by, and performed in accordance with, procedures developed by the National Association of Insurance Commissioners and the Colorado Division of Insurance. In reviewing material for this report the examiners relied primarily on records and material maintained by the Company. The examination for Private Passenger Automobile covered a six (6) month period of the Company's operations, from July 1, 2003 to December 31, 2003. The examination for Workers' Compensation covered one year, from January 1, 2002 to December 31, 2002.

File sampling was based on a review of underwriting and claims files that were randomly selected by using ACL™ software and computer data files provided by the company. Sample sizes were chosen based on procedures developed by the National Association of Insurance Commissioners. Upon review of each file any concerns or discrepancies were noted on comment forms and delivered to the Company for review. Once the Company was advised of a finding contained in a comment form, the Company had the opportunity to respond. For each finding the Company was requested to agree, disagree or otherwise justify the Company's noted action. At the conclusion of each sample the Company was provided a summary of the findings for that sample. The examination report is a report by exception. Therefore, much of the material reviewed is not addressed in this written report. Reference to any practices, procedures, or files, which manifested no improprieties, was omitted.

When sampling was involved, a minimum error tolerance level of five percent (5%) was established to determine reportable exceptions. However, if an issue appeared to be systematic, or when due to sampling process it was not feasible to establish an exception percentage, a minimum error tolerance percentage was not utilized. Also, if more than one sample was reviewed in a particular area of examination (e.g. timeliness of claims payment), and if one or more samples yielded an exception rate of five percent (5%) or more, the results of any other samples with exception percentages less than five (5%) were also included.

An error tolerance level of plus or minus ten dollars (\$10.00) was allowed in most cases where monetary values were involved. However, in cases where monetary values were generated by computer or other systemic methodology, a zero (\$0) tolerance level was applied in order to identify possible system errors. Additionally, a zero (\$0) tolerance level was applied in instances where there appeared to be a consistent pattern of deviation from the Company's established policies, procedures, rules and/or guidelines.

The report addresses Private Passenger Automobile and Workers' Compensation issues and contains information regarding exceptions to the Colorado insurance law. The examination included review of the following:

- A. Company Operations and Management
- B. Underwriting and Rating
- C. Claims Practices

The examination of Workers' Compensation included the following reviews:

- A. Policies with Experience Modifiers
- B. Policies without Experience Modifiers
- C. Unit Statistical Plan Reporting
 - 1. Premium Audits
 - 2. Claims Comparison
 - a. Policies with Experience Modifiers
 - b. Deductible Policies

Classifications, exposures and premiums on audited policies with experience modifiers were verified when possible on current experience modification notices provided by the National Council on Compensation Insurance (NCCI) to ensure that this information had been recorded correctly by NCCI.

Certain unacceptable or non-complying practices may not have been discovered in the course of this examination. Additionally, findings may not be material to all areas that would serve to assist the Commissioner. Failure to identify or criticize specific Company practices does not constitute acceptance by the Colorado Division of Insurance. Examination findings may result in administrative action by the Division of Insurance.

EXAMINERS' METHODOLOGY

The examiners reviewed the Company's Private Passenger Automobile underwriting and claims practices, as well as Workers' Compensation Unit Statistical reporting practices to NCCI Manual Rules to determine compliance with NCCI and Colorado insurance laws as outlined in Exhibit 1.

On July 1, 2003, the Colorado Auto Accident Reparations Act, also known as the motor vehicle no-fault insurance law was repealed pursuant to § 10-4-726, C.R.S. Upon enactment of HB 03-1188, the Colorado law index was changed to include modification and clarification of laws under Section 10-4-600. Because this examination included the repeal and the addition of new Colorado auto insurance laws during the period under examination, both No-Fault (PIP) and tort reform as well as additional legislative enactments during 2003 are included in Exhibit 1.

Exhibit 1

Law	Subject
Colorado PIP/No fault Related laws	
Section 10-4-602.	Basis for Cancellation.
Section 10-4-603.	Notice.
Section 10-4-604.	Nonrenewal.
Section 10-4-605.	Proof of notice.
Section 10-4-609.	Insurance protection against uninsured motorists-applicability.
Section 10-4-610.	Property damage protection against uninsured motorists.
Section 10-4-611.	Elimination of discounts – damage by uninsured motorist.
Section 10-4-613.	Glass repair and replacement.
Section 10-4-614.	Inflatable restraint systems - replacement - verification of claims.
Section 10-4-706.	Required coverage - complying policies - PIP examination program.
Section 10-4-706.5.	Operator's policy of insurance.
Section 10-4-707.5.	Ridesharing arrangements - benefits payable - required coverage.
Section 10-4-708.	Prompt payment of direct benefits.
Section 10-4-709.	Coordination of benefits.
Section 10-4-710.	Required coverages are minimum.
Section 10-4-711.	Required provision for intrastate and interstate operation.
Section 10-4-713.	No tort recovery for direct benefits.
Section 10-4-714.	Limitation on tort actions.
Section 10-4-715.	No limitation on tort action against non-complying tort-feasors.
Section 10-4-717.	Intercompany arbitration.
Section 10-4-718.	Quarterly premium payments.
Section 10-4-719.	Prohibited reasons for nonrenewal or refusal to write a policy of automobile insurance applicable to this part 7.
Section 10-4-719.5.	Discriminatory standards - premiums - surcharges - proof of financial responsibility requirements.
Section 10-4-719.7.	Refusal to write, changes in, cancellation, or nonrenewal of policies prohibited.

Law	Subject
Section 10-4-720.	Cancellation - renewal - reclassification.
Section 10-4-721.	Exclusion of named driver.
Section 10-4-724.	Reduction in rates for drivers aged fifty-five years or older who complete a driver's education course legislative declaration.
Section 10-4-725.	Certification of policy and notice forms.
Section 10-3-1103.	Unfair methods of competition and unfair or deceptive acts or practices prohibited.
Section 10-3-1104.	Unfair methods of competition and unfair or deceptive acts or practices.
Regulation 1-1-6	Certification of Forms
Regulation 1-1-7.	Market Conduct Record Retention.
Regulation 1-1-8	Penalties and Timelines Concerning Division Inquiries and Document Requests.
Regulation 5-1-2.	Application and Binder Forms.
Regulation 5-1-10.	Rate and Rule Filing Regulation
Regulation 5-1-16.	Limitations on the Use of Credit Information or Insurance Scoring.
Regulation 5-2-1.	Relative Value Schedule for No Fault.
Regulation 5-2-2.	Renewal of Automobile Insurance Policies – Excluded Named Drivers.
Regulation 5-2-3.	Auto Accident Reparations Act (No Fault) Rules and Regulations.
Regulation 5-2-6.	Automobile No Fault Cost Containment Options.
Regulation 5-2-8.	Timely Payment of Personal Protection Benefits.
Regulation 5-2-9.	Personal Injury Protection Examination Program.
Regulation 6-1-1.	Limiting coverage.
Regulation 6-2-1.	Complaint Record Maintenance.
Tort Reform Legislation and Revised laws- Effective July 1, 2003	
Section 10-4-615	Motorist insurance identification database program.
Section 10-4-616	Disclosure of credit reports.
Section 10-4-617	Auto theft prevention authority.
Section 10-4-618	Unfair or discriminatory trade practices legislative declaration.
Section 10-4-619	Coverage compulsory.
Section 10-4-620	Required coverage.
Section 10-4-621	Required coverages are minimum.
Section 10-4-622	Required provision for intrastate and interstate operation.
Section 10-4-623	Conditions and exclusions.
Section 10-4-624	Self-insurers.
Section 10-4-625	Quarterly premium payments.

Section 10-4-626	Prohibited reasons for nonrenewal or refusal to write a policy of Automobile insurance.
Law	Subject
Section 10-4-628	Refusal to write-changes in-cancellations-nonrenewal
Section 10-4-629	Cancellation-renewal-reclassification.
Section 10-4-630	Exclusions of named driver.
Section 10-4-631	Insurers to file rate schedule.
Section 10-4-632	Reduction in rates for drivers aged fifty-five or older who Complete a driver's education course-legislative declaration.
Section 10-4-633	Certification of policy and notice forms.
Emergency Regulations 03-E-2, 5, and 10	Transition from No-Fault Auto to Tort System.

Below are Workers' Compensation laws applicable during the period under review.

Law	Subject
Section 10-4-110	Notice of intent prior to nonrenewal of certain policies of insurance.
Section 10-4-110.5	Notice of intent prior to unilateral increase in premium or decrease in coverage previously provided of certain policies of insurance.
Section 10-4-113	Exemptions.
Section 10-4-401	Purpose – applicability.
Section 10-4-413	Records required to be maintained.
Section 10-4-416	Prohibiting changes in rates or coverages.
Section 10-4-421	Notice of rate increases and decreases.
Regulation 5-1-10	Rate and Rule Filing Submissions
Regulation 5-1-11	Risk Modification Plans
Regulation 5-3-1	Workers' Compensation Risk Management Regulation
Regulation 5-3-2	Workers' Compensation Insurance Data Reporting Regulation
Regulation 5-3-3	Concerning Workers' Compensation Deductible Policies in Excess of \$5,000
Regulation 5-3-4	Concerning Standards for Not-At-Fault Motor Vehicle Accidents Under Workers' Compensation, Loss Limitation in Calculating Experience Modifications and Distribution of Losses in Excess of The Loss Limitation
Regulation 5-3-5	Workers' Compensation Deductible Reimbursement
Regulation 6-2-2	Response to Division Inquiries Concerning Complaints

Company Operations/Management

The examiners reviewed Company management, implementation of quality controls, record retention, installment payment plans, anti-fraud plan, forms certification, tort conversion, and timely cooperation with the examination process.

Contract Forms and Endorsements

Forms and endorsements used by the Company in writing Workers' Compensation policies containing Colorado exposures are filed with the Colorado Division of Insurance by the National Council on Compensation Insurance (NCCI) and no review was conducted of these forms.

The following Private Passenger Automobile forms and endorsements were reviewed for compliance applicable to the period under examination as filed with the Colorado Division of Insurance:

Form Title	Form Number
Notice of Cancellation, Nonrenewal, or Conditional renewal	GU 402 c (7-02)
Notice of Cancellation, Nonrenewal, Proposed Reduction in Coverage or Increase in Premium	GU 6901 b (7-02)
Premium Summary	Q0700000 (6/25/97)
Itemized Articles	Q1200000 (8/31/87)
Coverage Summary	Q802000 (10/27/03)
Table of Contents	Q0903000 (10/27/03)
Introduction	Q200000 (4/12/88)
Vehicle Physical Damage	3600005 (2/21/00)
Collector Vehicle Physical Damage Coverage	3700005 (4/6/98)
Uninsured Motorists Protection	3800005 (10/27/03)
Vehicle Liability Coverage	4800005 (10/27/03)
Policy terms	7000005 (11/18/02)
Signature	7200005 (11/18/02)
Policy Information Notice	7300005 (11/18/02)
Driver Exclusion Signature Form	01-10-1137 (5/90)
Colorado Selection Form Uninsured Motorists Protection (UM) (Masterpiece)	Q4732005 (10/03)
Colorado Selection Form Uninsured Motorist Protection (UM) (Collector Vehicle Program)	01-10-1472 (10/03)
Colorado Personal Vehicle Disclosure Form (Masterpiece)	6484005 (10/03)
Colorado Personal Vehicle Disclosure Form (Stocked)	01-10-1471 (10/03)
Colorado Collector Vehicle Disclosure Form	01-10-1473 (10/03)
Mexican Collision Coverage	A1409b (6-98)
Antique Automobile Policy	01-02-0013 (Ed.10-72)
Agreed Value Endorsement	01-01-0384 (Ed. 4-95)
Privacy Policy and Practices	01-10-1456 (Rev. 9-01)
Antique Auto Amendment of Definition	01-02-0333 (Rev. 2-90)

Underwriting

For the period under examination, the examiners randomly selected the following Private Passenger Auto underwriting samples to determine compliance with underwriting practices:

**Private Passenger Automobile Policies
From July 1, 2003-December 31, 2003**

Underwriting Lists	Population	Sample Size	Percentage to Population
In-Force	620	50	8%
Cancellations for cause and Nonpayment of premium	53	50	94%
Nonrenewals	2	2	100%
Surcharges	39	39	100%

For the period under examination, samples were randomly selected from the following underwriting lists to determine compliance with underwriting and rating requirements for Workers' Compensation policies:

**Workers' Compensation Policies
January 1, 2002-December 31, 2002**

Underwriting Lists	Population	Sample Size	Percentage to Population
Policies with Experience Modifiers	484	45	9%
Policies without Experience Modifiers	243	47	19%

Samples of fifty (50) policies were selected for each group from a database of policies which were to have at least \$300 of Colorado premium. It was noted during the examination that five (5) policies with Modifiers did not have any Colorado premium. Of the policies without Modifiers, one (1) did not have Colorado premium and two (2) files had duplicate policies in the database thus reducing the sample to 45 and 47 policies respectively, which is the reason for samples other than the fifty (50) which is based on NAIC sample procedures.

Rating

A review was performed of Private Passenger Automobile rate, rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance for the period under examination. This information was then compared against a sample of policies, rated by coverage, to determine compliance with base rates, territory codes, symbols, discounts, and final premium calculations.

Workers' Compensation rate and rule filings, statistical justifications, and methodology submitted to Colorado Division of Insurance were reviewed for the period under examination. This information was then compared against samples of policies with experience modifiers and policies without experience modifiers to determine compliance with NCCI filed loss costs factors, Company filed loss cost multipliers, schedule rating and payroll information. In addition, compliance with NCCI promulgated experience modifiers and NCCI manual rules concerning proper employee classifications, officer payrolls, fixed premium determinations for officers, partners or sole proprietors and Colorado cost containment and designated medical provider requirements were reviewed.

Automobile Claims and Unit Statistical Reports

For the period under examination, the examiners randomly selected the following samples for Private Passenger Automobile to determine compliance of claims handling practices:

**Private Passenger Automobile Claims
From July 1, 2003-December 31, 2003**

Claim Lists	Population	Sample Size	Percentage to Population
Claims Paid	32	32	100%
Claims Denied	0	0	0%
PIP paid claims	3	3	100%

For the period under examination, the following samples of claims were reviewed from policies with experience modifiers and from policies with deductibles to determine compliance with unit statistical report transmitting requirements of the NCCI:

**Workers' Compensation Unit Statistical Reports
January 1, 2002-December 31, 2002**

Claims List	Population	Sample Size	Percentage to Population
Claims from Policies with Experience Modifiers	56	56	100%
Claims from Policies with Deductibles	276	139	50%

The maximum number of claims examined from any policy's statistical report was twenty-five (25) and these were chosen by interval sampling.

EXAMINATION REPORT SUMMARY

The examination resulted in twelve (12) issues arising from the Company's apparent failure to comply with Colorado insurance law that govern all property and casualty insurers operating in Colorado. These issues involved the following categories:

Company Operations and Management:

In the area of company operations and management, there are six (6) Compliance issues addressed in this report. In regard to these Company Operations and management practices, it is recommended that the Company review its procedures and make the necessary changes to assure future compliance with applicable Colorado insurance laws.

The issues in this phase of the examination are as follows:

- Failure, in some cases, to convert policies from no-fault to tort as required by Colorado insurance law.
- Failure of the Company to inform insureds of the changes in coverage and premium difference relating to conversion from No-fault to Tort effective July 1, 2003.
- Failure to obtain insureds consent and to summarize Medical Payment coverage on policies replacing No-fault (PIP) with Tort.
- Failure of the Company to submit the Annual Forms Certification by July 1 as required by Colorado insurance law.
- Failure of the Company, in some cases, to maintain records required for Private Passenger Automobile market conduct examination purposes.
- Failure of the Company, in some cases, to maintain records required when writing workers' compensation policies when writing Colorado exposures.

Underwriting and Rating:

In the area of underwriting, four (4) compliance issues are addressed in this report. An issue may arise from Colorado insurance law requirements that must be complied with whenever policies are issued to Colorado insureds or contain Colorado exposures. In regard to these underwriting and rating practices, it is recommended that the Company review its underwriting and rating procedures and make the necessary changes to assure future compliance with applicable Colorado insurance laws.

The issues in this phase of the examination are identified as follows:

- Failure to offer a named driver exclusion and a proper explanation for the nonrenewal of PPA policies.
- Failure of the Company to require the insured to indicate on a form their awareness of the premium differential available when an insured selects a medical cost containment option and a designated medical provider and to retain this form in the insured's underwriting file.

- Failure of the Company, in some cases, to audit the insured's records in order to calculate a correct earned premium for the Workers' Compensation Policy.
- Failure of the Company, in some cases, to apply the correct rating methodology when rating and/or auditing workers' compensation policies with Colorado exposures.

Claim Practices and Unit Statistical Reports

In the area of claim practices and unit statistical reports, two (2) compliance issues are addressed in this report. Issues arise from Colorado insurance law requirements dealing with the fair and equitable settlement of claims, claims handling practices, payment of PIP claim benefits, and the timeliness and accuracy of Private Passenger Automobile claim payments

An issue arises for Workers' Compensation claims derived from unit statistical reports from Colorado statutory and regulatory requirements and the requirements of the NCCI that must be followed when reporting policy and claim information to the NCCI.

It is recommended that the Company review its claim handling practices and procedures and make necessary changes to ensure future compliance with applicable statutes and regulations.

The issues in this phase are identified as follows:

- Failure, in some cases, in the timely payment of PIP benefits.
- Failure of the Company, in some cases, to correctly transmit unit statistical report information to the NCCI.

A copy of the Company's response, if applicable, can be obtained by contacting the Company or the Colorado Division of Insurance.

Results of Market Conduct Exams are available on the Colorado Division of Insurance's website at www.dora.state.co.us/insurance or by contacting the Colorado Division of Insurance.

FEDERAL INSURANCE COMPANY

PRIVATE PASSENGER AUTOMOBILE

PERTINENT FACTUAL FINDINGS

PERTINENT FACTUAL FINDINGS

PRIVATE PASSENGER AUTOMOBILE

COMPANY OPERATIONS AND MANAGEMENT

Issue A: Failure, in some cases, to convert policies from No-fault to Tort as required by Colorado insurance law.

Emergency Regulations 03-E-2 and 03-E-5 Transition from No-Fault Auto to Tort System as promulgated pursuant to §§ 10-1-109, 10-3-1110, 10-4-601.5 (as codified in HB 03-1188 effective July 1, 2003), and 10-4-704 (effective until July 1, 2003), C.R.S. states:

Section 2 Background And Purpose

The purpose of this regulation is to promote a smooth transition from a no-fault auto system to a tort system in the State of Colorado, by prescribing rules and providing guidance to auto insurers. On July 1, 2003, the Colorado Auto Accident Reparations Act, also known as the motor vehicle no-fault insurance law, is repealed pursuant to § 10-4-726, C.R.S. There is considerable industry and consumer confusion concerning the effect of the conversion to a tort system on auto policies. Among other things, confusion exists concerning the effect of the conversion on auto policies issued or renewed prior to July 1, 2003 that renew after July 1, 2003. In addition, there is industry confusion concerning various rate filing and notice requirements regarding changes to automobile policies.

The Division bases its interpretation of various statutory changes effected by the repeal of the no-fault law and the enactment of HB 03-1188 upon the constitutional prohibition against impairment of existing contracts and retrospective application of laws. These prohibitions are set forth in Article II, Section 11 of the Colorado Constitution and are elaborated upon in case law.

The Commissioner notes that as of the effective date of this emergency regulation, additional bills that may affect the issues and statutory codification (i.e., the citation numbers) herein are pending before the Colorado Governor.

The Colorado Commissioner of Insurance finds that immediate adoption of this regulation is imperatively necessary to comply with the repeal of the no-fault law and for the preservation of public health, safety or welfare. Compliance with the requirements of § 24-4-103, C.R.S. would be contrary to the public interest. Immediate adoption of the regulation without compliance with the rule-making procedures described in § 24-4-103, C.R.S. is necessary because of the extremely short period of time between the 2003 Colorado General Assembly's decision to allow the repeal of the no-fault law (the session adjourned on May 7, 2003), and the effective date of the repeal on July 1, 2003.

Section 3 Applicability And Scope

This regulation shall apply to all carriers who issue automobile policies in the State of Colorado.

Section 4 Definitions

As used in this regulation:

A. “No-fault” refers to the Colorado Auto Accident Reparations Act enacted under §§ 10-4-701 to 726, C.R.S. which is repealed in accordance with § 10-4-726, C.R.S. on July 1, 2003.

B. “Tort” refers to the auto system to which Colorado will revert on July 1, 2003. Tort refers to a civil wrong for which an insured may seek redress in a court of law, usually in the form of damages.

Section 5 Rules

A. By operation of law, Colorado will revert from a no-fault auto system to a tort system effective on July 1, 2003. The change will occur after midnight at 12:00.01 AM United States Mountain Time, July 1, 2003, as calculated under § 2-4-109, C.R.S.

B. All auto policies issued, written or delivered on or after July 1, 2003 must be issued, written or delivered as tort policies.

C. Renewal notices delivered to insureds prior to July 1, 2003 for policies with an effective date on or after July 1, 2003, must renew or amend the policies as tort policies.

D. Existing no-fault policies do not automatically convert to tort policies on July 1, 2003. The policy’s no-fault coverages apply until the next renewal date.

E. Insurers may offer policyholders the option to “convert” their no-fault policies to tort policies effective after midnight July 1, 2003. The insurer and policyholder must mutually agree to this mid-term conversion. Insured consent may be made in the same medium in which the offer or request to convert is made, e.g., electronically. The insurer must maintain adequate proof of the insured’s consent. Adequacy will be determined by the Division.

F. Insurers are prohibited from requiring policyholders to convert their no-fault policies to tort policies until the next renewal date that comes after midnight July 1, 2003.

G. Policyholders may request that insurers convert their no-fault policies to tort policies for an effective date after midnight July 1, 2003. The insurer and policyholder must mutually agree to this mid-term conversion. Insured consent may be made in the same medium in which the offer or request to convert is made, e.g., electronically. The insurer must maintain adequate proof of the insured’s consent. Adequacy will be determined by the Division.

H. Insurers are prohibited from re-underwriting policies mid-term that convert from the no-fault to the tort system.

I. Insurers are prohibited from charging application fees or cancellation fees or other similar charges to insureds upon conversion of policies from no-fault to tort policies.

J. Insurers are prohibited from “rolling on” additional coverages such as medical payments coverage without the insured’s consent. Insured consent may be made in the same medium in which the offer or request to add additional coverages is made, e.g., electronically. The insurer must maintain adequate proof of the insured’s consent. Adequacy will be determined by the Division. Where insurers have added additional coverages prior to the effective date of this regulation, they must obtain insured consent for the change or remove the coverage as of its effective date, recalculate premium and refund any owed premium.

K. The Division has determined that the notice requirements contained in §§ 10-4-110.5, 10-4-626, and 10-4-720, C.R.S., and regulations promulgated thereunder, do not apply at the first conversion of a no-fault policy to a tort policy where the sole cause for the reduction in coverage is the repeal of the no-fault law. These statutes continue to apply when it is the insurer’s actions that cause the reduction in coverage, the increase in premium or the failure to renew, i.e., application of the insurer’s underwriting guidelines and/or rating rules. Where the reduction in coverage occurs solely because of the effect of the repeal of the no-fault law, the insurer is not unilaterally reducing coverages. Rather, coverages are being modified by operation of law and accordingly, the notice requirements do not apply.

L. The Division has determined that the rating provisions contained in § 10-4-416, C.R.S. do not apply at the first conversion of a no-fault policy to a tort policy, where the sole cause for the decrease in coverage is the repeal of the no-fault law. This statute continues to apply when it is the insurer’s action that causes the reduction in coverage, or the increase in premium, i.e., application of the insurer’s underwriting guidelines and/or rating rules. Where the reduction in coverage occurs solely because of the effect of the repeal of the no-fault law, the insurer is not unilaterally reducing coverages. Rather, coverages are being modified by operation of law and accordingly, the prohibition does not apply.

M. Except as provided in section 5(N), on or before the tenth (10th) calendar day before the effective date of the change to the policy where the insurer is first converting a no-fault policy to a tort policy, the insurer shall send by first-class mail written notice of the change to the named insured at the insured’s last known address. The notice shall state in clear and specific terms all of the following:

1. The proposed action to be taken, including, if the change is a change in premium or change in coverage, the amount of the premium, the type of coverage to which the premium change is applicable, the type of coverage increased or reduced, and the extent of the change in coverage.

- a. In the notice, insurers shall make reasonable efforts to express the amount of any premium change as a dollar amount allocated among the various coverages.

- b. If an insurer is unable to comply with Section 5(L)(1)(a) within the required timeframe, the insurer shall include in the notice a statement that the allocation of the premiums for the various coverages will be identified no later than when the policy is issued. In addition, the insurer shall be prepared to justify the failure to the Division to the satisfaction of the Division.

- c. In no event shall a policy be issued that does not clearly differentiate the premiums for the various coverages.

2. The proposed effective date of the change.

3. A statement of reasons why the change is necessary so that a person of average intelligence can understand the necessity for the change without making further inquiry. This statement shall include, at a minimum, the following:
- An explanation of the change in law necessitating the conversion of the policy.
 - A general explanation of why various coverages are being increased or reduced, including the effect on premium.

Notices regarding the changes in coverages and the changes in premiums may be mailed separately within the required timeframe.

N. Where the insured requests that the carrier convert the policy mid-term, and the insurer agrees to convert the policy, insurers shall mail the notice to the insured as required in section 5(L) or within 10 calendar days after the change becomes effective.

O. Failure to comply with the provisions of this regulation constitutes an unfair or deceptive act or practice in the business of insurance pursuant to § 10-3-1110, C.R.S.

Section 6 Enforcement

Noncompliance with the requirements and timeframes specified in this regulation may result, after proper notice and hearing, in the imposition of any sanctions made available in Colorado statutes pertaining to the business of insurance or other laws which include the imposition of fines, issuance of cease and desist orders, and/or suspension or revocation of license.

Section 7 Severability

If any provision of this regulation is for any reason held to be invalid, the remainder of the regulation shall not be affected.

Section 8 Effective Date

This regulation is effective immediately upon issuance on June 3, 2003.

In the review of in force policies after July 1, 2003, it was noted that the Company issued renewals of Colorado policies and policies with Colorado exposures with No-fault or PIP coverage.

The following displays the population of in force policies, sample size, number of exceptions and percentage to sample for policies renewed with PIP for the period under review:

**Private Passenger Automobile In Force Policies
From July 1, 2003-December 31, 2003**

Population	Sample Size	Number of Exceptions	Percentage to Sample
620	50	13	26%

An examination of fifty (50) in force policies representing 8% of the total from July 1, 2003-December 31, 2003, showed thirteen (13) policies for which the renewal was effective after July 1, 2003, but showed the renewal with PIP coverage.

The following displays the thirteen (13) policies with an effective date of renewal after July 1, 2003 with PIP coverage:

**Number of Policies Renewed with No-Fault Coverage
From July 1, 2003-December 31, 2003**

Month of Renewal	Number of renewals in Sample
July	6
August	7
Total	13

As stated in Emergency Regulation 03-E-02 and 03-E-05, Section 5, Rules, C: *Renewal notices delivered to insureds prior to July 1, 2003 for policies with an effective date on or after July 1, 2003, must renew or amend the policies as tort policies. (Emphasis added)* Therefore, the Company should have amended those policies with an effective date of July 1, and after to reflect tort coverage on Colorado Private Passenger Auto policies.

In addition, the Company did not send a notice of the Repeal of No-fault (PIP) to policyholders until August 1, 2003. A notice to field staff and producers that the Company's automated policy issuance system would be able to support the changes from No-fault to Tort, was not sent until October 3, 2003. The Company's notices to insureds provided optional coverage for increased Medical Payment limits, revised UM selection forms, and additional policyholder notifications. The changes for the Company's automated policy issuance system took effect for new policies on October 27, 2003, and for renewals with effective dates of December 21, 2003.

Recommendation Number 1:

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Colorado Emergency Regulations 03-E-2 and 03-E-5 as it relates to the conversion from No-fault to Tort.

Issue B: Failure of the Company to inform insureds of differences in coverage and premium difference as required when coverage was to be converted from No-Fault (PIP) to Tort.

Emergency Regulations 03-E-2 and 03-E-5 Transition from No-Fault Auto to Tort System as promulgated pursuant to §§ 10-1-109, 10-3-1110, 10-4-601.5 (as codified in HB 03-1188 effective July 1, 2003), and 10-4-704 (effective until July 1, 2003), C.R.S. states in part:

Section 5 Rules

M. Except as provided in section 5(N), on or before the tenth (10th) calendar day before the effective date of the change to the policy where the insurer is first converting a no-fault policy to a tort policy, the insurer shall send by first-class mail written notice of the change to the named insured at the insured's last known address. The notice shall state in clear and specific terms all of the following:

1. The proposed action to be taken, including, if the change is a change in premium or change in coverage, the amount of the premium, the type of coverage to which the premium change is applicable, the type of coverage increased or reduced, and the extent of the change in coverage.
 - a. In the notice, insurers shall make reasonable efforts to express the amount of any premium change as a dollar amount allocated among the various coverages.
 - b. If an insurer is unable to comply with Section 5(L)(1)(a) within the required timeframe, the insurer shall include in the notice a statement that the allocation of the premiums for the various coverages will be identified no later than when the policy is issued. In addition, the insurer shall be prepared to justify the failure to the Division to the satisfaction of the Division.
 - c. In no event shall a policy be issued that does not clearly differentiate the premiums for the various coverages.
2. The proposed effective date of the change.
3. A statement of reasons why the change is necessary so that a person of average intelligence can understand the necessity for the change without making further inquiry. This statement shall include, at a minimum, the following:
 - a. An explanation of the change in law necessitating the conversion of the policy.
 - b. A general explanation of why various coverages are being increased or reduced, including the effect on premium.

Notices regarding the changes in coverages and the changes in premiums may be mailed separately within the required timeframe.

The following demonstrates the error ratio as it relates to conversion from PIP to Tort policies during the period under review:

**Private Passenger Automobile In Force Policies
From July 1, 2003-December 31, 2003**

Population	Sample Size	Number of Exceptions	Percentage to Sample
620	50	13	26%

An examination of fifty (50) in force policies representing 8% of the total from July 1, 2003-December 31, 2003, showed thirteen (13) policies for which the renewal was effective after July 1, 2003, but showed the renewal with PIP coverage.

In the review of notices sent to policyholders on renewals effective on or after July 1, 2003, it was noted that the first notices relating to the conversion from No-fault to Tort and the differences in coverage began being sent on August 1, 2003 for renewals with an effective date of August 24 and after. In addition, it appears that the notices did not show the differences including premium, between No-Fault and Tort. Therefore, it appears these notices were not in compliance with Colorado insurance law.

Recommendation Number 2:

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Colorado Emergency Regulations 03-E-2 and 03-E-5 as it relates to the conversion from No-fault to Tort.

Issue C: Failure of the Company to obtain insureds consent to include Medical Payment coverage with Tort policies that replaced No-fault (PIP) policies effective on and after July 1, 2003.

Emergency Regulations 03-E-2 and 03-E-5 Transition from No-Fault Auto to Tort System as promulgated pursuant to §§ 10-1-109, 10-3-1110, 10-4-601.5 (as codified in HB 03-1188 effective July 1, 2003), and 10-4-704 (effective until July 1, 2003), C.R.S. states in part:

Section 5 Rules

- A. By operation of law, Colorado will revert from a no-fault auto system to a tort system effective on July 1, 2003. The change will occur after midnight at 12:00.01 AM United States Mountain Time, July 1, 2003, as calculated under § 2-4-109, C.R.S.
- B. All auto policies issued, written or delivered on or after July 1, 2003 must be issued, written or delivered as tort policies.
- C. Renewal notices delivered to insureds prior to July 1, 2003 for policies with an effective date on or after July 1, 2003, must renew or amend the policies as tort policies.
- D. Existing no-fault policies do not automatically convert to tort policies on July 1, 2003. The policy's no-fault coverages apply until the next renewal date.
- E. Insurers may offer policyholders the option to "convert" their no-fault policies to tort policies effective after midnight July 1, 2003. The insurer and policyholder must mutually agree to this mid-term conversion. Insured consent may be made in the same medium in which the offer or request to convert is made, e.g., electronically. The insurer must maintain adequate proof of the insured's consent. Adequacy will be determined by the Division.
- F. Insurers are prohibited from requiring policyholders to convert their no-fault policies to tort policies until the next renewal date that comes after midnight July 1, 2003.
- G. Policyholders may request that insurers convert their no-fault policies to tort policies for an effective date after midnight July 1, 2003. The insurer and policyholder must mutually agree to this mid-term conversion. Insured consent may be made in the same medium in which the offer or request to convert is made, e.g., electronically. The insurer must maintain adequate proof of the insured's consent. Adequacy will be determined by the Division.
- H. Insurers are prohibited from re-underwriting policies mid-term that convert from the no-fault to the tort system.
- I. Insurers are prohibited from charging application fees or cancellation fees or other similar charges to insureds upon conversion of policies from no-fault to tort policies.
- J. Insurers are prohibited from "rolling on" additional coverages such as medical payments coverage without the insured's consent. Insured consent may be made in the same medium in which the offer or request to add additional coverages is made, e.g., electronically. The insurer must maintain adequate proof of the insured's consent. Adequacy will be determined by the Division. Where insurers have added additional coverages prior to the effective date of this regulation, they must obtain insured consent for the change or remove the coverage as of its effective date, recalculate premium and refund any owed premium.

In reviewing policies renewed with Tort coverage it was noted that the Company automatically included \$10,000 of Medical Payment coverage with each Tort policy issued after July 1, 2003. The Company also offers an increased limit of Medical Payments coverage from \$25,000-\$100,000 with a signed consent form from the insured.

It appears that the Company is not in compliance with Colorado insurance law by automatically including \$10,000 Medical Payment coverage with each Tort policy without obtaining the insured's consent.

Recommendation Number 3:

Within thirty (30) days the Company should demonstrate why it should not be considered to be in violation of Colorado Emergency Regulations 03-E-2 and 03-E-5 as it relates to the conversion from No-fault to Tort. If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has corrected its procedures and implemented a plan to ensure that the insured's consent is obtained before any Medical Payment coverage is added to a policy in compliance with Colorado insurance law.

Issue D: Failure of the Company to submit the Annual Forms Certification by July 1, as required by Colorado insurance law.

Section 10-4-633, C.R.S., (Effective July 1, 2003), Certification of policy and notice forms states:

(1) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall submit an annual report to the commissioner listing any policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner issued or delivered to any policyholder in Colorado. Such listing shall be submitted no later than July 1 of each year and shall contain a certification by an officer of the organization that to the best of the officer's knowledge each policy form, endorsement, or notice form in use complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(2) All insurers providing automobile insurance and who are authorized by the commissioner to conduct business in Colorado shall also submit to the commissioner a list of any new policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner at least thirty-one days before using such policy form, endorsement, cancellation notice, renewal notice, disclosure form, notice of proposed premium increase, notice of proposed reductions in coverage, and any other form as may be requested by the commissioner. Such listing shall also contain a certification by an officer of the organization that to the best of the officer's knowledge each new policy form, endorsement, or notice form proposed to be used complies with Colorado law. The necessary elements of the certification shall be determined by the commissioner.

(3) The commissioner shall have the power to examine and investigate insurers authorized to conduct business in Colorado to determine whether automobile policy forms, endorsements, cancellation notices, renewal notices, disclosure forms, notices of proposed premium increases, notices of proposed reductions in coverage, and such other forms as may be requested by the commissioner comply with the certification of the organization and statutory mandates.

The Company's Annual Certification Form which should be filed by July 1st annually with the Colorado Division of Insurance was not submitted until September 18, 2003.

Recommendation Number 4:

Within thirty (30) days, the Company should provide documentation demonstrating the reasons it should not be considered in violation of Section 10-4-633 C.R.S., (Effective July 1, 2003). If the Company is unable to provide such documentation, the Company should be required to provide documentation demonstrating that it has corrected its procedures and implemented a plan to ensure that all form filings are complete and certified to the Division of Insurance by the required date to ensure compliance with Colorado insurance law.

Issue E: Failure, in some cases, to maintain records required for market conduct examination purposes.

Section 10-4-413(1), C.R.S., Records required to be maintained, states in part:

Every insurer, rating organization, or advisory organization and every group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience or the experience of its members and of the data, statistics, or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys, or inspections made or used by it, so that such records will be available at all reasonable times to enable the commissioner to determine whether such organization, insurer, group, or association and, in the case of an insurer or rating organization, every rate, rating plan, and rating system made or used by it complies with the provisions of this part 4 applicable to it. The maintenance of such records in the office of a licensed rating organization of which an insurer is a member or subscriber will be sufficient compliance with this section for any insurer maintaining membership or subscribership in such organization to the extent that the insurer uses the rates, rating plans, rating systems, or underwriting rules of such organization. Such records shall be maintained in an office within this state or shall be made available for examination or inspection by the commissioner at any time, upon reasonable notice.

In addition, Colorado Amended Regulation 1-1-7 (Amended June 1, 2003), promulgated under the authority of Section 10-1-109, C.R.S., states in part:

Section 4. **RECORDS REQUIRED FOR MARKET CONDUCT PURPOSES**

A. Every entity subject to the Market Conduct process shall maintain its books, records, documents and other business records in a manner so that the following practices of the entity subject to the Market Conduct process may be readily ascertained during market conduct examinations, including but not limited to, company operations and management, policyholder services, claim's practices, rating, underwriting, marketing, complaint/grievance handling, producer licensing records, and additionally for health insurers/carriers or related entities: network adequacy, utilization review, quality assessment and improvement, and provider credentialing. Records for this regulation regarding market conduct purposes shall be maintained for the current calendar year plus two prior calendar years.

B. Each producer of record, if the carrier does not maintain, shall maintain records for each policy sold, and the records shall contain all work papers and written communications in the producer's possession pertaining to the documented policy.

Section 5. **POLICY RECORDS**

A. The following records shall be maintained: A policy record shall be maintained for each policy issued. Policy records shall be maintained so as to show clearly the policy period, basis for rating and any imposition of additional exclusions from or exceptions to coverage. If a policy is terminated, either by the insurer or the policyholder, documentation supporting the termination and account records indicating a return of premiums, if any, shall also be maintained. Policy records need not be segregated from the policy records of other states so long as the records are readily available to market conduct examiners as required under this regulation.

- B. Policy records shall include at least the following:
- (1) The actual, completed application for each contract, where applicable;
 - (a) The application shall bear the signature, either written or digitally authenticated, where required, of the applicant whenever the insurer intends to retain any right to contest any warranty, representation or condition contained in the application; or
 - (b) The application shall bear a clearly legible means by which an examiner can identify a producer involved in the transaction. The examiners shall be provided with any information needed to determine the identity of the producer;
 - (2) Any declaration pages (the initial page and any subsequent pages), the insurance contract, any certificates evidencing coverage under a group contract, any endorsements or riders associated with a policy, any termination notices, and any written or electronic correspondence to or from the insured pertaining to the coverage. A separate copy of the record need not be maintained in the individual policy to which the record pertains, provided it is clear from the insurer's other records or systems that the record applies to a particular policy and that any data contained in the record relating to that policy, as well as the actual policy, can be retrieved or recreated;
 - (3) Any binder with terms and conditions that differ from the terms and conditions of the policy subsequently issued; and
 - (4) Any guidelines, manuals or other information necessary for the reconstruction of the rating, underwriting, and claims handling of the policy. Presentation at the site of a market conduct examination of a single copy of each of the above shall satisfy this requirement. If a rating, underwriting, or claims handling record is computer based, the records used to input the information into the computer system shall also be available to the examiners. These types of records include, but are not limited to, the application, where applicable, the policy form including any amendments or endorsements, rating manuals, underwriting rules, credit reports or scores, claims history reports, previous insurance coverage reports, e.g., MIB questionnaires, internal reports, loans and underwriting and rating notes.

**Private Passenger Automobile Cancellations
From July 1, 2003-December 31, 2003**

Population	Sample Size	Number of Exceptions	Percentage to Sample
47	47	2	4%

During the course of the examination, there were two (2) cancellation notices out of a sample of forty-seven (47) (or 4% of the sample) which could not be produced.

**Private Passenger Automobile Surcharges
From July 1, 2003-December 31, 2003**

Population	Sample Size	Number of Exceptions	Percentage to Sample
39	39	4	10%

There were four (4) surcharge notices out of the total population of thirty-nine (39) requested for review (10%) which could not be produced.

Recommendation Number 5:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-413, C.R.S., and Colorado Regulation 1-1-7. In the event that Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has established a maintenance and retrieval procedure for market conduct review and implemented necessary changes in order to ensure compliance with Colorado insurance law.

PERTINENT FACTUAL FINDINGS
PRIVATE PASSENGER AUTOMOBILE
UNDERWRITING AND RATING

Issue F: Failure to offer a named driver exclusion and complete explanation for the nonrenewal, on notices sent to insureds with PPA policies.

Section 10-4-628, C.R.S. (Effective July 1, 2003) Refusal to write-changes in-cancellation-nonrenewal of policies prohibited states in part:

(2) (a) (I) No insurer shall cancel; fail to renew; reclassify an insured under; reduce coverage under, unless the reduction is part of a general reduction in coverage filed with the commissioner; or increase the premium for, unless the increase is part of a general increase in premiums filed with the commissioner, any complying policy solely because the insured person has been convicted of an offense related to the failure to have in effect compulsory motor vehicle insurance or because such person has been denied issuance of a motor vehicle registration for failure to have such insurance.

(b) (I) An insurer shall not refuse to write a complying policy solely because of the claim or driving record of one or more but fewer than all of the persons residing in the household of the named insured.

(II) An insurer shall offer to exclude any person in a household by name pursuant to section 10-4-629 if such person's driving record and claim experience would justify the refusal by such insurer to write a policy for such person if such person were applying in such person's own name and not as part of a household.

Section 10-4-629, C.R.S., (Effective July 1, 2003) Cancellation-renewal-reclassification states:

(1) Except in accordance with the provisions of this part 6, an insurer shall not cancel or fail to renew a policy of insurance that complies with this part 6, issued in this state, as to any resident of the household of the named insured, for any reason other than nonpayment of premium, or increase a premium for any coverage on any such policy unless the increase is part of a general increase in premiums filed with the commissioner and does not result from a reclassification of the insured, or reduce the coverage under any such policy unless the reduction is part of a general reduction in coverage filed with the commissioner or to satisfy the requirements of other sections of this part 6.

(2) An insurer intending to take an action subject to the provisions of this section shall, on or before the thirtieth day before the proposed effective date of the action, send written notice by first-class mail of its intended action to the insured at the insured's last-known address. The notice shall be in triplicate and shall state in clear and specific terms, on a form that has been certified by the insurer and the insurer has filed a certification with the commissioner that such notice form conforms to Colorado law and any rules promulgated by the commissioner:

(a) The proposed action to be taken, including, if the action is an increase in premium or reduction in coverage, the amount of increase and the type of coverage to which it is applicable or the type of coverage reduced and the extent of the reduction;

(b) The proposed effective date of the action;

(c) The insurer's actual reasons for proposing to take such action. The statement of reasons shall be sufficiently clear and specific so that a person of average intelligence can identify the basis for the insurer's decision without making further inquiry. Generalized terms such as "personal habits", "living conditions", "poor morale", or "violation or accident record" shall not suffice to meet the requirements of this subsection (2).

Section 10-4-630, C. R.S., (Effective July 1, 2003) Exclusion of named driver states:

(1) In any case where an insurer is authorized under this part 6 to cancel or refuse to renew or increase the premiums on an automobile liability insurance policy under which more than one person is insured because of the claim experience or driving record of one or more but less than all of the persons insured under the policy, the insurer shall in lieu of cancellation, nonrenewal, or premium increase offer to continue or renew the insurance but to exclude from coverage, by name, the person whose claim experience or driving record would have justified the cancellation or nonrenewal. The premiums charged on any such policy excluding a named driver shall not reflect the claims, experience, or driving record of the excluded named driver.

**Private Passenger Automobile Policies Nonrenewed
From July 1, 2003-December 31, 2003**

Population	Sample Size	Number of Exceptions	Percentage to Sample
2	2	2	100%

During the period under review the Company had two (2) policies that nonrenewed due to the driving records of a member(s) of a household. The Company did not offer a named driver exclusion on these nonrenewals or provide an adequate explanation for the reasons the Company nonrenewed the policy.

Recommendation Number 6:

Within thirty (30) days, the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-628, 10-4-629 and 10-4-630, C.R.S. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has revised its procedures to ensure that a named driver exclusion is offered and an adequate reason for the Company's action for the cancellation/nonrenewal of policies is provided to ensure compliance with Colorado insurance law.

PERTINENT FACTUAL FINDINGS
PRIVATE PASSENGER AUTOMOBILE
CLAIMS

Issue G: Failure, in some cases, in the timely payment of PIP benefits.

Section 10-4-708 C.R.S., Prompt payment of direct benefits, provides, in part:

(1) Payment of benefits under the coverages enumerated in section 10-4-706(1)(b) to (1)(e) or alternatively, as applicable, section 10-4-706(2) or (3) shall be made on a monthly basis. Benefits for any period are overdue if not paid within thirty days after the insurer receives reasonable proof of the fact and amount of expenses incurred during that period; except that an insurer may accumulate claims for periods not exceeding one month, and benefits are not overdue if paid within fifteen days after the period of accumulation.

Additionally, Amended Regulation 5-2-8 [Amended and effective September 1, 2000], Timely Payment of Personal Injury Protection Benefits, jointly promulgated by the Commissioner of Insurance and the Executive Director of the Department of Revenue pursuant to §§10-1-109, 10-4-704, 10-4-708(1.3), and 10-3-1110(1), C.R.S.

Section 3. Rule

B. Prompt Payment of PIP Benefits

Section 10-4-708(1), C.R.S. provides that benefits under the coverages enumerated in §10-4-706, C.R.S. are overdue if not paid within 30 days after the insurer receives reasonable proof of the fact and amount of the expenses incurred.

The following chart illustrates the significance of error versus the population and sample examined:

**Private Passenger Auto PIP Claims Paid
From July 1, 2003-December 31, 2003**

Population	Sample Size	Number of Exceptions	Percentage to Sample
3	3	1	33%

An examination of three (3) PIP claim files, representing 100% of all PIP claim files paid by the Company during the examination period, showed one (1) exception (33% of the sample) wherein the Company failed to pay at least one PIP medical bill in the file within the statutory standard as required by Colorado insurance law.

Recommendation Number 7:

Within thirty (30) days the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-708, C.R.S. and Colorado Amended Regulation 5-2-8. In the event the Company is unable to provide such documentation, it should be required to provide evidence to the Division of Insurance that it has reviewed its claims handling of PIP benefit payments and implemented necessary procedural changes in order to ensure compliance with Colorado insurance law

FEDERAL INSURANCE COMPANY

WORKERS' COMPENSATION

PERTINENT FACTUAL FINDINGS

WORKERS' COMPENSATION
OPERATIONS AND MANAGEMENT
PERTINENT FACTUAL FINDINGS

Issue H: Failure of the Company, in some cases, to maintain records required when writing workers' compensation policies that contain Colorado exposures.

Section 10-4-413, C.R.S., Records required to be maintained, states in part:

(1) Every insurer...shall maintain reasonable records, of the type and kind reasonably adapted to its method of operation, of its experience or the experience of its members and of the data, statistics, or information collected or used by it in connection with the rates, rating plans, rating systems, underwriting rules, policy or bond forms, surveys, or inspections made or used by it, so that such records will be available at all reasonable times to enable the commissioner to determine whether such organization, insurer, group, or association and, in the case of an insurer or rating organization, every rate, rating plan, and rating system made or used by it complies with the provisions of this part 4 applicable to it...Such records shall be maintained in an office within this state or shall be made available for examination or inspection by the commissioner at any time, upon reasonable notice.

Colorado Regulation 1-1-7, Market Conduct Record Retention, promulgated under the authority of Section 10-1-109, C.R.S., states, in part:

(B) RECORDS REQUIRED FOR MARKET CONDUCT PURPOSES

1. Every insurer/carrier or related entity licensed to do business in this state shall maintain its books, records, documents and other business records so that the insurer's/carrier's or related entity's claims, rating, underwriting, marketing, complaint, and producer licensing records are readily available to the Commissioner. Unless otherwise stated within this regulation, records shall be maintained for the current calendar year plus two calendar years.
2. A policy record shall be maintained for each policy issued in this state. Policy records shall be maintained for the current policy term, plus two calendar years, unless otherwise contractually required to be retained for a longer period. Provided, however, documents from policy records no longer required to be maintained under this regulation, which are used to rate or underwrite a current policy, must be maintained in the current policy records. Policy records shall be maintained so as to show clearly the policy term, basis for rating and, if terminated, return premium amounts, if any. Policy records need not be segregated from the policy records of other states so long as they are readily available to the commissioner as required under this rule. A separate copy need not be maintained in the individual policy records, provided that any data relating to that policy can be retrieved. Policy records shall include:
 - a. The application for each policy, if any;
 - b. Declaration pages, endorsements, riders, termination notices, guidelines or manuals associated with or used for the rating or underwriting of the policy. Binder(s) shall be retained if a policy was not issued; and
 - c. Other information necessary for reconstruction of the rating and underwriting of the policy.

Colorado Regulation 5-1-11, Risk Modification Plans, promulgated under the authority of Section 10-1-109, 10-4-401, 10-4-403, 10-4-404, and 10-4-408, C.R.S., states, in part:

(III) RULES

(A) Definitions...

(13) "Rate modification plan" (commonly called Schedule Rating Plan or Individual Risk Premium Modification Plan) means a rating plan or procedure which provides a listing of various risk characteristics or conditions and a range of modification factors which may be applied for these characteristics or conditions to the manual rate of a particular insurance risk...

B. Rate modification plans, justified according to the standards herein, are permitted. However, the Commissioner has determined that the use of unjustified rate modification plans is not reasonable, is not objective and is unfairly discriminatory. Therefore, the use of unjustified rate modification plans in rating of commercial property and casualty insurance risks located in Colorado is prohibited.

The following elements shall be considered in determining whether or not a rate modification plan, or its use, is justified...

4. Individual underwriting files must contain the specific criteria and document the particular circumstances of the risk that support each debit and credit. This documentation must exist in the individually rated risk file to enable the Commissioner to verify compliance with this regulation. Documentation may include, but is not limited to, inspection reports, photographs, agent observations and findings, insured's formal safety plans, premises evaluations and narrative reports covering other aspects of the risk...

The following charts illustrate the significance of errors versus the population and sample examined:

**Workers' Compensation Policies With Experience Modifiers
From January 1, 2002-December 31, 2002**

Population	Sample Size	Number of Exceptions	Percentage to Sample
484	45	18	40%

An examination of forty-five (45) policies with experience modifiers, representing 9% of all workers' compensation policies with experience modifiers which contain Colorado exposures written by the Company during the period January 1, 2002 to December 31, 2002, showed fifteen (15) exceptions out of nineteen (19) policies that were scheduled rated (or 79% of this group) in which policy files did not contain a schedule rating breakdown and/or justification for the schedule debit or credit given and three (3) policies did not contain the NCCI experience modification worksheet required to justify the modification used on the billing statement.

**Workers' Compensation Policies Without Experience Modifiers
From January 1, 2002-December 31, 2002**

Population	Sample Size	Number of Exceptions	Percentage to Sample
243	47	2	4%

An examination of forty-seven (47) policies without experience modifiers, representing 19% of all workers' compensation policies without experience modifiers which contain Colorado exposures written by the Company during the period January 1, 2002 to December 31, 2002, showed two (2) exceptions out of three (3) policies that were scheduled rated (or 67% of this group) in which policy files did not contain a schedule rating breakdown and/or justification for the schedule debit or credit given.

Recommendation Number 8:

Within thirty (30) days the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-413, C.R.S. and Colorado Regulations 1-1-7 and 5-1-11. If the Company is unable to provide such documentation, it should be required to provide written evidence to the Colorado Division of Insurance that it revised its procedures to ensure that required records will be maintained when writing workers' compensation policies containing Colorado exposures in compliance with Colorado insurance laws.

WORKERS' COMPENSATION
UNDERWRITING AND RATING
PERTINENT FACTUAL FINDINGS

Issue I: Failure of the Company to provide the insured with a form to indicate their awareness of the premium differential available, when an insured selects a cost containment option and a designated medical provider and to retain this form in the insured's underwriting file.

Colorado Regulation 5-1-11, Risk Modification Plans, promulgated pursuant to the authority of Section 10-1-109, 10-4-401, 10-4-403, 10-4-404, and 10-4-408, C.R.S., states, in part:

(III) RULES...

(D) Workers' Compensation Cost Containment Disclosures

All workers' compensation insurers, including the Colorado Compensation Insurance Authority, shall disclose the availability of cost containment certification by the Colorado Workers' Compensation Cost Containment Board and the potential premium savings on the face of the insurance policy or in a separate disclosure form attached as an addendum to the policy. Such disclosure applies regardless of whether or not a risk is experience or schedule rated. *Insurers shall require that the insured business entity indicate* [emphasis added] on a form developed by the insurer, which states that the business entity is aware of the premium dividend if the business entity's risk management program is certified by the Colorado Cost Containment Board. *This form shall be made part of the insured business entity's underwriting file.* [Emphasis added]

On an annual basis, all workers' compensation insurers, including the Colorado Compensation Insurance Authority, shall disclose the premium differential on the face of the insurance policy or in a separate disclosure form attached as an addendum to the policy when the policyholder has selected a designated medical provider. Such disclosure applies regardless of whether a risk is experience rated or schedule rated. *Insurers shall require that the insured business entity indicate* [emphasis added] on a form developed by the insurer, which states that the business entity is aware of the premium differential for selecting a designated medical provider. *This form shall be made part of the insured business entity's underwriting file.* [Emphasis added]

The following charts illustrate the significance of errors versus the populations and samples examined:

**Workers' Compensation Policies with Experience Modifiers
From January 1, 2002-December 31, 2002**

Population	Sample Size	Number of Exceptions	Percentage to Sample
484	45	45	100%

An examination of forty-five (45) policies with experience modifiers, representing 9% of all workers' compensation policies with experience modifiers, written by the Company during the period of January 1, 2002 to December 31, 2002, showed forty-five (45) exceptions (or 100% of the sample) in which there were no signed forms in the underwriting file, upon which the insureds had indicated their awareness of the premium differential available if they had chosen a medical cost containment option and if they had selected a designated medical provider.

**Workers' Compensation Policies without Experience Modifiers
From January 1, 2002-December 31, 2002**

Population	Sample Size	Number of Exceptions	Percentage to Sample
243	47	47	100%

An examination of forty-seven (47) policies without experience modifiers, representing 19% of all workers' compensation policies without experience modifiers, written by the Company during the period January 1, 2002 to December 31, 2002, showed forty-seven (47) files (or 100% of the sample) in which there were no signed forms in the underwriting file upon which the insureds had indicated their awareness of the premium differential available if they had chosen a medical cost containment option and if they had selected a designated medical provider.

Recommendation Number 9:

Within thirty (30) days the Company should be required to provide documentation demonstrating why it should not be considered in violation of Colorado Regulation 5-1-11. In the event the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance which will ensure that the Company will retain a copy of a form in an insured's underwriting file on which the insured has indicated their awareness of the premium differential available, if they were to chose a medical cost containment option and if they had selected a designated medical provider in compliance with Colorado insurance laws.

Issue J: Failure of the Company, in some cases, to audit insureds' records in order to calculate a correct earned premium.

Section 10-4-401, C.R.S., Purpose – applicability, states, in part:

(3) The kinds of insurance subject to this part 4 shall be divided into two classes, as follows...

(b) Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Additionally, Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states, in part:

(1) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance...

(f)(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Regulation 5-1-10, Rate and Rule Submissions Property and Casualty Insurance, promulgated pursuant to the authority of Sections 10-1-109, 10-3-1110, 10-4-404, and 10-4-404.5, C.R.S., states, in part:

Section 5. Rules...

C. Rule Filing General Requirements...

2. Every property and casualty company, including those writing workers' compensation and title insurance, is required by this regulation to provide a list of minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

3. Companies may adopt, by reference, rating and/or advisory organization insurance rating plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals, and modifications of any of the foregoing. A completed copy of the appropriate filing form prescribed by the Commissioner in a separate Bulletin must accompany the filing.

NCCI Basic Manual Rules: Rule 3-A-13 states in part:

13. Final Earned Premium

Final Earned Premium is the total premium earned during the policy term. It is calculated using actual payrolls multiplied by the rate for each classification. Final earned premium includes the application of premium elements applicable to the insured.

Final earned premium for the policy must be determined on *actual payroll as determined by the carrier at audit*, instead of on estimated payroll or other premium basis. (Emphasis added)

Determination of final earned premium is governed by the rules, classifications, and rates in this manual, subject to modification by applicable rating plans...

The following charts illustrate the significance of errors versus the populations and samples examined:

Workers' Compensation Policies With Experience Modifiers From January 1, 2002-December 31, 2002

Population	Sample Size	Number of Exceptions	Percentage to Sample
484	45	8	18%

An examination of forty-five (45) policies with experience modifiers, representing 9% of all workers' compensation policies with experience modifiers, written by the Company during the period January 1, 2002 to December 31, 2002, showed eight (8) policies in which the Company had not made an attempt to perform an audit which would have determined the actual earned premium. Instead, the insured was charged the estimated premium which was on the policy at inception.

Workers' Compensation Policies Without Experience Modifiers From January 1, 2002-December 31, 2002

Population	Sample Size	Number of Exceptions	Percentage to Sample
762	47	1	2%

An examination of forty-seven (47) policies without experience modifiers, representing 19% of all workers' compensation policies without experience modifiers, written by the Company during the period January 1, 2002 to December 31, 2002, showed one (1) policy in which the Company had not made an attempt to perform an audit which would have determined the actual earned premium. Instead, the insured was charged the estimated premium which was on the policy at inception.

Recommendation Number 10:

Within thirty (30) days the Company should be required to provide documentation demonstrating why it should not be considered in violation of Colorado Regulation 5-1-10. In the event the Company is unable to provide such documentation, it should be required to provide written procedures to the Colorado Division of Insurance which will ensure that the Company will attempt to perform an audit in order to charge the actual premium instead of estimated premium in compliance with Colorado insurance law.

Issue K: Failure of the Company, in some cases, to apply the correct rating methodology when rating workers' compensation policies which contain Colorado exposures.

Section 10-4-401, C.R.S., Purpose – applicability, states, in part:

(3) The kinds of insurance subject to this part 4 shall be divided into two classes, as follows...

(b) Type II kinds of insurance, regulated by open competition between insurers, including fire, casualty, inland marine, title insurance, and all other kinds of insurance subject to this part 4 and not specified in paragraph (a) of this subsection (3), including the expense and profit components of workers' compensation insurance, which shall be subject to all the provisions of this part 4 except for sections 10-4-405 and 10-4-406. Concurrent with the effective date of new rates, type II insurers shall file rating data, as provided in section 10-4-403, with the commissioner.

Additionally, Section 10-3-1104, C.R.S., Unfair methods of competition and unfair or deceptive acts or practices, states, in part:

(2) The following are defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance...

(f)(II) Making or permitting any unfair discrimination between individuals of the same class or between neighborhoods within a municipality and of essentially the same hazard in the amount of premium, policy fees, or rates, charged for any policy or contract of insurance, or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever;

Regulation 5-1-10, Rate and Rule Submissions Property and Casualty Insurance, promulgated pursuant to the authority of Sections 10-1-109, 10-3-1110, 10-4-404, and 10-4-404.5, C.R.S., states, in part:

Section 5. Rules...

C. Rule Filing General Requirements...

2. Every property and casualty company, including those writing workers' compensation and title insurance, is required by this regulation to provide a list of minimum premiums, schedule of rates, rating plans, dividend plans, individual risk modification plans, deductible plans, rating classifications, territories, rating rules, rate manuals and every modification of any of the foregoing which it proposes to use. Such filings must state the proposed effective date thereof, and indicate the character and extent of the coverage contemplated.

The following chart illustrates the significance of errors versus the population and sample examined:

**Workers' Compensation Policies With Experience Modifiers
From January 1, 2002-December 31, 2002**

Population	Sample Size	Number of Exceptions	Percentage to Sample
484	45	36	77%

An examination of forty-five (45) policies with experience modifiers, representing 9% of all workers' compensation policies with experience modifiers which contain Colorado exposures, written by the Company during the period January 1, 2002 to December 31, 2002, showed thirty-six (36) exceptions in which incorrect rating methodology was used. Thirty-two (32) policies contained premium discounts; 100% of which were incorrect. The Company had used an incorrect table of discounts that had been changed by a filing which was not incorporated into the Company's rating system on January 1, 2002. This made all premium discounts incorrect until the system was corrected on December 1, 2002. Some policies contained more than one error. One (1) policy was using an incorrect classification and three (3) policies used an incorrect experience modification. One modification error produced an overcharge of \$2,161. The overcharge was refunded to the insured. All undercharges were waived by the Company.

**Workers' Compensation Policies Without Experience Modifiers
From January 1, 2002-December 31, 2002**

Population	Sample Size	Number of Exceptions	Percentage to Sample
243	47	29	62%

An examination of forty-seven (47) policies without experience modifiers, representing 19% of all workers' compensation policies without experience modifiers which contain Colorado exposures, written by the Company during the period January 1, 2002 to December 31, 2002, showed twenty-nine (29) exceptions (or 62% of the sample) in which incorrect rating methodology was used. Some policies contained more than one error. Twenty-seven (27) policies contained premium discounts; 100% of which were incorrect. The Company had used an incorrect table of discounts that had been changed by a filing which was not incorporated into the Company's rating system on January 1, 2002. This made all premium discounts incorrect until the system was corrected on December 1, 2002. In addition, two (2) policies used an incorrect classification, one of which produced an overcharge of \$236. The overcharge was returned to the insured. All undercharges were waived by the Company.

Recommendation Number 11:

Within thirty (30) days the Company should provide documentation demonstrating why it should not be considered in violation of Sections 10-4-401, 10-3-1104, C.R.S, and Colorado Regulation 5-1-10. If the Company is unable to provide such documentation, it should be required to provide written evidence to the Colorado Division of Insurance that it has taken appropriate steps to ensure that it will apply correct rating methodology when rating policies with Colorado exposures in compliance with Colorado insurance law.

WORKERS' COMPENSATION

UNIT STATISTICAL REPORTS/CLAIMS

PERTINENT FACTUAL FINDINGS

Issue L: Failure of the Company, in some cases, to transmit correct unit statistical report information to the NCCI.

Section 10-4-402, C.R.S., Definitions, states in part:

(3) “Rating organization” means every person, other than an admitted insurer, which has as its object or purpose the making of pure premium rates, rating plans, or rating systems...

Section 10-4-404, C.R.S., Rate administration, states in part:

(1) The commissioner shall promulgate rules and regulations which shall require each insurer to record and report its loss and expense experience and such other data, including reserves, as may be necessary to determine whether rates comply with the standards set forth in Section 10-4-403. Every insurer or rating organization shall provide such information and in such form as the commissioner may require. No insurer shall be required to record or report its loss or expense experience on a classification basis that is inconsistent with the rating system used by it. The commissioner may designate one or more rating organizations or advisory organizations to assist him in gathering and in compiling such experience and data. No insurer shall be required to record or report its experience to a rating organization unless it is a member of such organization.

NCCI’s Workers Compensation Statistical Plan Manual states in part:

PART 4: LOSS INFORMATION

7. Indemnity Incurred Amounts

...The amount reported as incurred indemnity including all paid and outstanding benefits (vocational rehabilitation, compensation paid to the deceased prior to death, burial expenses, and payments to the state or to special funds).

8. Medical Incurred Amounts

- Reserves for future payments
- All payments to doctors and hospitals
- Physical rehabilitation costs
- Medical loss items, such as transportation expenses associated with medical treatment

35. Deductible Reimbursement (Amount)

Report the deductible reimbursement received from the insured. Deductible reimbursements must be reported for states that require net reporting of losses for experience rating. In net experience rating states, the net loss will be calculated using the deductible reimbursement amount. All losses must be reported on a gross basis..., including losses that were reimbursed by an indemnity and/or medical deductible payment by the insured. If reimbursements are received after a first or subsequent valuation, report the reimbursement on the next valuation.

Exceptions: Colorado Statute 8-44-111, effective July 1, 1991, states that the experience rating losses must be net up to the first \$5,000 per claim in deductible reimbursement for both large and small deductible programs; therefore, report the deductible reimbursement with an upper limit of \$5,000 per claim in the Deductible Reimbursement field. Effective with all unit statistical reports received at NCCI on January 1, 2003 and thereafter, the definition of deductible reimbursement has been amended to remove the requirement that the insurer must receive the reimbursement from the insured before reporting the deductible reimbursement. The insurer must apply the full policy deductible associated with the loss and report that deductible amount (up to the value of the incurred loss) into the Deductible reimbursement field. The amount reported in Deductible Reimbursement remains subject to the upper limit (maximum) of \$5,000 per claim.

The following charts illustrate the significance of errors versus the populations and samples examined:

**Claims For Workers' Compensation Policies With Experience Modifiers
From January 1, 2002-December 31, 2002**

Population	Sample Size	Number of Exceptions	Percentage to Sample
56	56	4	7%

An examination of fifty-six (56) claims from policies with experience modifiers, representing 100% of all claims filed for forty-five (45) of the policies with experience modifiers, written by the Company during the period January 1, 2002 to December 31, 2002 showed four (4) errors (or 7% of the sample) in which there were errors reported on the insureds' unit statistical reports.

In three (3) instances an incorrect classification was reported for the injured employee and one (1) claim which was on the statistical report was not on the Company's master claims list.

**Claims For Workers' Compensation Deductible Policies
From January 1, 2002-December 31, 2002**

Population	Sample Size	Number of Exceptions	Percentage to Sample
276	139	139	100%

An examination of 139 claims from thirteen (13) policies with deductibles, representing 50% of all claims filed for the policies with deductibles, written by the Company during the period January 1, 2002 to December 31, 2002, showed 139 exceptions (or 100% of the sample), in which claim information had not been reported correctly on unit statistical reports that were presented to the examiners. All of the claims failed to report the deductible amount for the claim in the Deductible reimbursement field box on the unit statistical report. In addition, the following errors were on the same files: There were ten (10) instances of reporting an incorrect workers' compensation employee classification code, two (2) claims were not reported on the statistical report and one (1) incorrect medical payment was reported. This report showed \$5,975 and the claim file showed \$6,367 medical paid.

The maximum number of claims examined on any report was twenty-five (25) and these were chosen by interval sampling.

Recommendation Number 12:

Within thirty (30) days the Company should provide documentation demonstrating why it should not be considered in violation of Section 10-4-404, C.R.S. If the Company is unable to provide such documentation, it should be required to provide written evidence to the Colorado Division of Insurance that it has taken appropriate steps to ensure that it will transmit correct unit statistical report information to NCCI in compliance with Colorado insurance law.

It is also recommended that the Company request that experience modification factors be recalculated by NCCI, and then apply the corrected factors to all policies in which classifications, deductibles or claim statistics were incorrectly reported.

SUMMARY OF RECOMMENDATIONS**PRIVATE PASSENGER AUTOMOBILE**

<u>ISSUE</u>	<u>RECOMMENDATION NUMBER</u>	<u>PAGE NUMBER</u>
Company Operations and Management		
Issue A. Failure, in some cases, to convert policies from No-fault to Tort as required by Colorado insurance law.	1	22
Issue B. Failure of the Company to inform insureds of the changes in coverage and the premium difference relating to conversion from No-fault to Tort effective July 1, 2003.	2	24
Issue C. Failure of the Company to obtain insureds consent and summarize Medical Payment coverage which replaces No-Fault policies effective on and after July 1, 2003.	3	26
Issue D. Failure of the Company to submit the Annual Forms Certification by July 1, as required by Colorado insurance law.	4	27
Issue E. Failure, in some cases, to maintain records required for market conduct examination purposes.	5	30
Underwriting		
Issue F. Failure to offer a named driver exclusion and complete explanation for the nonrenewal on notices sent to Insureds with PPA policies.	6	33
Claims		
Issue G. Failure, in some cases, in the timely payment of PIP benefits.	7	35

SUMMARY OF RECOMMENDATIONS**WORKERS' COMPENSATION**

<u>ISSUE</u>	<u>RECOMMENDATION NUMBER</u>	<u>PAGE NUMBER</u>
Company Operations and Management		
Issue H. Failure of the Company, in some cases, to maintain records required when writing workers' compensation policies which contain Colorado exposures.	8	40
Underwriting		
Issue I. Failure of the Company to provide the insured with a form to indicate their awareness of the premium differential available, when an insured selects a cost containment option and a designated medical provider and to retain this form in the insureds underwriting file.	9	43
Issue J. Failure of the Company, in some cases, to audit insureds records in order to calculate a correct earned premium.	10	45
Issue K. Failure of the Company, in some cases, to apply the correct rating methodology when rating workers' compensation policies which contain Colorado exposures.	11	47
Claims		
Issue L. Failure of the Company, in some cases, to transmit correct unit statistical report information to the NCCI.	12	51

Independent Market Conduct Examiners

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Participated in this examination and in the preparation of this report